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ABSTRACT

The handbook is part of a series on legal services for the elderly which can be provided by senior citizens functioning as paralegals. It is designed to assist trainers in preparing paralegals and covers the following areas: (1) planning a training program--trainees; trainers; setting; materials, equipment, and props; program content; scheduling; and evaluation; (2) trainer roles--producer, director, teacher, and evaluator; (3) role playing as a teaching tool--planning role playing exercises, starting the role playing, directing the role players, and critiquing the role playing exercise; (4) film and video tape as a tool in training; and (5) teaching interviewing techniques--principles and issues. Also included are 10 exercises for applying the interviewing skills learned: the paralegal role, establishing rapport, client confidentiality, explaining client's right to an administrative hearing, client eligibility, listening to clients, non-verbal behavior, fact gathering, developing a plan of action and closing the interview, and summary of previous skills. Appended materials include a trainer's bibliography, suggested training schedules, evaluation and other forms, job description for legal assistant, and a checklist for evaluating interviewer's non-verbal behavior. (EC)

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paralegal training: focus on interviewing

trainer's handbook

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PARALEGAL TRAINING:
Focus on Interviewing

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preface

Paralegal training is a new field and there are as many theories about the best way to provide training as there are trainers. In private law practice, most of the training is done in-house by the lawyers, and through self-training by the paralegals. In publicly-funded legal services offices training is haphazardly provided on-the-job with most of the paralegals learning on their own.

One of the most serious problems has been the lack of training materials for trainees and for trainers. To begin to fill that need, funds have been provided for a series of training packets by the Administration on Aging, Department of Health, Education and Welfare through the National Paralegal Institute of Washington, D.C. This Trainer's Handbook is part of a packet on interviewing. Other packets in this series are:

1. a handbook and film on how to set up a legal services office using older persons as paralegals in delivering legal services to the elderly;
2. a handbook and film on an administrative hearing in the Social Security system, including substantive material on the regulations and statutes governing Social Security Disability;
3. written material on the new federalized welfare program for adults called "Supplemental Security Income."

introduction

The purpose of this Trainer's Handbook is to provide assistance to a person placed in the role of trainer, whose experience in that role might be limited. For that reason, the first four sections deal with issues which are germane to training no matter what the subject area, although special reference is made throughout to training in interviewing techniques. Those first four sections are:

- Planning a Training Program
- Trainer Roles: Producer, Director, Teacher and Evaluator
- Role-Playing as a Teaching Tool
- Film and Video Tape as a Tool in Training

The fifth section is devoted exclusively to teaching interviewing techniques, including ten training exercises.

Before reading this Handbook, the film, "Paralegal Interviewing: Fact-Gathering and the Human Perspective" should be reviewed and the accompanying Trainee's Handbook should be studied. Issues and principles related to interviewing are covered in that material and will not be repeated in this Handbook.

planning a training program

Training is an on-going process, so any training provided by a legal services office should be seen as part of a long-range plan. Since legal service offices have a high rate of turnover, there is the continual need to train new employees. There is also the need to update and enrich the skills and knowledge base of employees who have been on the job.

Before planning a training program, the trainer should have a commitment from the program director to on-going training, which includes the freeing of paralegals from case responsibility when the training sessions are in progress. Other issues involved in planning which will be explored in detail in the following pages are:

- selecting the trainees;
- selecting the trainers;
- selecting the setting;
- gathering the materials, equipment, props;
- developing the program content;
- scheduling the events;
- evaluating the training.

the trainees

Ideally for any training session one would want trainees with a high interest in learning, who are flexible, and who have comparable levels of skill in reading, writing and verbal ability. However, trainers seldom have control over the selection process, with trainees sometimes being placed in a training program "for their own good." In any event, **trainers should insist minimally on a common basis for selection, such as common job functions or a common knowledge base.**

Since learning is often related to the relevance of the subject matter to the trainee's job, it is obvious that there is an advantage to grouping trainees with similar job responsibilities together. For instance, do not combine paralegals who only do eligibility screening with those paralegals who engage in a whole range of activities from initial interviewing through representation at an administrative hearing.

Another basis for selection can be a common knowledge base. This can be accomplished either by selecting paralegals who work in the same law area or by preceding the training on interviewing with a workshop in an agreed upon area of the law.

If a particular agency does not have enough paralegals to warrant this kind of grouping, it might be possible to approach other legal services offices and do joint training.

the trainers

Selecting the trainers sometimes poses as great a problem as selecting the trainees. If there are persons in other legal services offices or back-up centers that provide training and/or consultation services, obviously such persons should be contacted.[1] However, if a local legal service office wants to develop a program for its own paralegal staff, one would look first to persons within that office for possible talent. If there are limitations in skill and knowledge, one would look to other persons in the private sector and/or other legal service offices in nearby communities. This is another reason for combining forces with other legal service offices both in selecting the trainees and the trainers.

The type of person needed for the trainer's role depends on the content of the training program. Once the content is set, then the trainers could be selected, keeping in mind the particular role the individual trainers will play. (See pages 15-17 for discussion of the trainer roles.)

Of greatest importance is the careful discussion with each trainer of the content and style of his presentation. Every trainer, of course, should have full knowledge of the total training program, including materials used, as well as understanding as to how his particular piece fits in with that program.

Although skill and experience in training are obviously important, it is our conviction that by careful planning and by being flexible during the course of training, **a person without extensive training experience can produce a good training session.**

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1. The National Paralegal Institute, 2000 P Street, N.W., Washington, D.C. 20036, (202) 872-0655, develops training materials, conducts training programs and provides consultation to OEO Legal Services projects on the use of paralegals. The California Rural Legal Assistance Office of the National Senior Citizens Law Center also provides these services with special emphasis on the elderly poor.

the setting

The ideal setting is one which is away from the agency, preferably out of the city, where the trainees and trainers will have to stay overnight. Since the role of learner or student differs from that of worker, **it is important to create an atmosphere which will remove the pressures of work and allow the paralegal to move into that different role.** This also provides an opportunity for informal interaction outside of the regularly scheduled events, both among trainees and between trainee and trainer, where learning can be reinforced.

If it is not possible to stay overnight, for financial or other reasons, it certainly is possible to find a meeting place away from the agency.

Regardless of the setting, there should be ample provision for appropriate meeting rooms, which should have: space for flexible arranging of furniture; comfortable chairs; good heating, cooling and lighting systems; provision of teaching tools such as a blackboard; and sufficient power, extension cords and plugs for audio-visual equipment.

materials, equipment & props

Carefully designed training materials can greatly enhance the learning process.[1] Binders with dividers should be provided to keep the materials together throughout the training sessions. Some of the materials would be for direct use in the sessions;' other materials would be for supplemental reading.

In addition to training and/or reference materials, other training materials should be prepared for use, such as: office forms for eligibility determination and interviewing purposes; checklists; tests; evaluation forms. Examples of these forms are found in the Appendix on pages 44-50.

All materials should be prepared ahead of time, and be handed out as needed. Spacing the handing out of materials livens up the session and can create renewed interest on the part of the trainees.

If a substantive area of the law is to be taught, selected materials sent out in advance for the trainee to overview can be useful. It still is necessary to schedule reading time into the sessions for those who come unprepared. But learning can be accelerated if the trainees come with some preparation.

All audio-visual equipment which the trainer plans to use should be pretested. There is nothing more distressing than to have a program all ready to go and the machine does not work. In addition, any films, video or audio tapes should be carefully reviewed before employing them in the training design.

And finally, any props that might be needed should be arranged for ahead of time, e.g. a phone for use in role-playing, or a small table that can be used as a desk.

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1. See the Appendix, p. 41, for a listing of materials presently available.

program content

Program content should ideally flow from the needs of the trainee as defined both by his job description and by his level of knowledge. However, it is impractical to devise such an individualized study program for a group. If there has been no formal training, we would recommend at least a week which would include **both** substantive law training and skills training. The substantive law training is necessary in order to provide a frame of reference for learning the skills needed to perform the roles of the paralegal. The focus would be on how to use the statute and/or regulations relating to a specific fact situation in performing such skills as interviewing, investigating, negotiating and representing a client.[1]

If the trainees come from different settings, it is useful to begin the training session with a discussion of the roles of the paralegals, with all trainees participating. This discussion should be held within the framework of legal ethics, so that paralegals have as clear an understanding as possible about the limits of their activities. Other possible topics include legal research and legal writing. (See Appendix, p. 42, for a proposed outline of a 5-day program.)

Other training formats, in addition to the basic training program described above, can be developed. It is possible to concentrate on individual components of an overall program. For instance, the training can be focussed on a single skill or substantive law area and be scheduled for a brief, intensive period. (See Appendix, p. 43, for a one-day training schedule on interviewing.)

1. The National Paralegal Institute has developed such a model.

scheduling

Scheduling is critical to the success of a training program. This is particularly true when there are several small training sessions running concurrently. **The person in charge of the scheduling must set down in a time-frame exactly what is to occur by designating the amount of time for each session, its location, the appointed trainer and required materials, props and equipment.** Each trainee must have a schedule which clearly indicates the name of the session, time and place. That schedule must be adhered to by the trainers, unless officially changed, or chaos will ensue.

Since most studies indicate that productivity decreases as the week proceeds, we would recommend beginning training on either Sunday or Monday. Having trainees register the night before training begins, with an informal get-together for trainees and trainers, provides a good beginning for a week of intensive interaction among a group of people who might never have met before. Other scheduling recommendations are:

- change tasks and training methods frequently; e.g., follow a lecture by discussion, allow time for reading, give a problem to solve;
- keep each session or task relatively short;
- have refreshment breaks;
- schedule study right into the work day;
- officially change the schedule if during the training program problems develop because of it.

evaluation

Preparation for evaluation must be made before the training begins. If there is an independent evaluator available, this is an advantage from the standpoint of objectivity. However, if there is agreement ahead of time on how the sessions are to be evaluated, a combination of trainee and trainer evaluations can be quite satisfactory.

The individual sessions can be evaluated from the standpoint of how well the session fulfilled the goal set for that session. Some considerations are:

- logistics: the quality of the physical set-up (seating arrangement, lighting, accoustics), as well as organization of the session;
- method used: lecture, role-play, discussion, from the standpoint of the appropriateness of the method in accomplishing the goal and in the technical quality of the method;
- trainer's role: flexibility, ability to involve the trainees, preparation and presentation;
- materials: their technical quality and appropriateness.

Forms developed ahead of time provide an easy method of keeping track of individual sessions, particularly if the training program lasts over several days. Forms should always be used as guides only, since a particular session might not lend itself to being evaluated in those terms. (See Appendix, pages 44 & 45, for forms).

The most important part of the evaluation process should occur one to two months after the training finishes and be conducted both by the trainee and his supervisor. This evaluation would focus on what difference the training made in terms of job performance, and could be the basis for further training programs.

trainer roles: producer, director, teacher & evaluator

The term trainer is usually considered synonomous with teacher. Little attention is paid to the variety of tasks which must be done if a training program is to be successful. Those tasks fall into natural clusters, and for each grouping of tasks we have devised a role name--producer, director, teacher, evaluator. As with any classification system, this one is rather arbitrary and artificial, and there is obvious overlap of function. **But such a system is useful because it allows the trainer to assign roles or tasks within roles to a number of people.**

producer

The producer is responsible for all the planning prior to the start of the program. This includes at least the following tasks: **selecting the trainees; selecting the trainers; selecting the setting; gathering the materials, equipment and props; developing an evaluation design; developing a curriculum.**

In essence, the producer is responsible for developing a structure through careful planning and organization which can enable a trainer to confidently assume the directing and teaching roles.

director

The director is responsible for implementing the planned training program in a dynamic way. His tasks include:

1. staging the exercises and problem situations in a realistic way that challenges the trainees' potentials and demands from them creative responses to the problems;
2. focusing the direction of the trainees' reaction to the problems and their interaction with one another;
3. adapting the training exercises to the needs, pace and potentials of the trainee group;
4. incorporating outside resources such as people, film, materials, props into the training format without disrupting the flow and focus of the exercises.

teacher

A teacher is one who imparts knowledge of a particular subject or skill. **A good teacher is one who carefully organizes his material, finds ways to highlight the most important aspects, and uses a variety of teaching tools and methods to share his knowledge.**

Lecturing is the traditional method associated with teaching, and is of particular importance in teaching substantive law. The use of a blackboard and/or charts to define terms and to give a broad outline of the subject matter to be covered is very useful. To make sure that the trainees are learning, the teacher should have frequent question and discussion periods, and provide for periodic assessment through written assignments or through demonstrating knowledge in role-playing situations. At the end of a session, it is particularly useful to summarize the major points.

As far as personality characteristics are concerned, skill in interpersonal relations and a friendly personality are always important in teaching, but assume particular significance when skills are being taught. Role-playing, the method usually relied on in skills training, requires a high degree of risk-taking on the part of the trainee. That is, the trainee must be willing to expose his level of knowledge to the scrutiny of peers and teachers. Thus **the trainer's ability to establish rapport with the trainees and gain their confidence is very important.**

evaluator

The evaluator has responsibility for the on-going evaluation of the training program. He must see to it that the evaluation forms discussed on page 14 are properly filled out, returned and analyzed. During the course of the training there should be at least daily meetings of the trainers to assess the program and modify it as necessary. After the training program is completed, a follow-up questionnaire should be sent to the trainees and their supervisors. When those questionnaires are returned and analyzed, future training programs can be designed, taking into consideration what is learned about teaching method and content from the first program.

role-playing as a teaching tool

Advocate skills, such as interviewing, negotiating and client representation, can best be learned by doing. One way to gain experience, without exploiting the client and his problem, is to simulate an actual situation. For example, the trainer might stage a "real" problem, with one trainee in the role of the paralegal interviewer, and another person playing the role of the client. Both trainees and trainers can benefit from this experience.

Trainees can use role-playing exercises to:

. . . apply and integrate new ideas and techniques within a controlled setting;

. . . develop a style of interviewing (or other advocate skill) that is effective and personally comfortable;

. . . use knowledge of substantive areas of the law in solving actual problems of a "real" client.

Trainers can use role-playing exercises to:

. . . see trainees in action and gain valuable insights into individual strengths and weaknesses;

. . . develop additional skill exercises based on common weaknesses of the group;

. . . determine trainee's major misunderstandings in substantive law areas, which might serve as the basis for further training.

In order to fully utilize the potential inherent in role-playing, it is necessary to give consideration to issues such as planning role-play exercises, getting role-playing started, directing the role-players and critiqueing the role-playing exercises.

planning role-playing exercises

Role-playing situations often deteriorate and are ineffective because there has been no planning. Some tasks to consider before beginning role-playing are:

- state clear objectives for each role-playing exercise;
- develop problems to meet those objectives;
- use the trainee's knowledge and experience, whenever possible, in developing those problems;
- determine the length of each role-playing exercise;
- decide on the props needed to make the role-playing situation real, e.g. having a desk, chairs, a telephone;
- plan how the event should be staged;
- select and coach the actors, such as the client, before starting role-playing.

starting the role-playing

Initially trainees are reluctant to get involved in role-playing. There is fear of exposure to ridicule and sometimes there is just ignorance about what is expected. This is particularly true of older persons. One of the most effective ways to get started is to provide a model of the way the skill could be performed. This provides structure to the subsequent exercises, helps make trainee expectations more realistic, and heightens the risk level.

In presenting a model for the trainees, the trainer can have an outside resource person or co-trainer demonstrate the skill, **or use a filmed demonstration such as the one provided in this packet.**

directing the role-players

The trainer must be ready to stop the role-playing exercise when it is floundering or when a particularly good teaching point has just occurred, or when it seems to have served its teaching purpose. The trainer might have to coach another person in either the client or paralegal role if the person in that role doesn't want to continue, or when for teaching reasons this seems advisable. Although generally one would want the trainee in the role of paralegal, since that is the role he is to learn, sometimes it is useful to have the trainee play the client role. **This is particularly helpful in sensitizing trainees who come from a different economic class, ethnic or age group to some of the real problems and frustrations of poor clients.**

critiqueing the role-playing exercise

The problems involved in critiqueing role-play exercises differ depending on whether the role-playing takes place in a group or in individual sessions. If it is a group situation, the trainer must be aware of the feelings of the person role-playing the paralegal and **keep the criticism constructively focused.** One way to do this is to structure the criticism and comments by first asking what the trainees **liked** about the paralegal's performance. The next step would be to free the atmosphere for a more honest exchange of opinions by asking the trainee playing the paralegal role how he felt about his own performance. Probe to see when he was uncomfortable and try to find out what he would do differently. The comments and criticisms of trainees should be focused on how well the paralegal achieved the specific goals of the training exercise and how that performance could be improved. It is important for the trainer to be alert to criticism which becomes an attack on personality.

Individual critiqueing has the same advantages as tutoring over group teaching. There is the combination of individual attention and freedom from exposure to one's peers. In addition, in a group session it would be almost impossible from a time standpoint for each person to have the experience of actually role-playing an entire interview. **Since that actual role-playing experience is needed for each trainee, it is imperative that arrangements be made to permit that experience to occur.**

Concerning the role of the critiquer, the supportive approach is still required, but the discussion can probably move more quickly to the negative in the trainee's performance.

And finally, in seeking critical feedback, it is equally important to ask the "client" what his reactions were to the paralegal. It is surprising how often a simulated exercise can provoke very real reactions to the way the person is treated. **The client's perspective is most important since this is who the paralegals are supposed to serve.**

film & video tape as a tool in training

The use of film and video-tape can provide:

1. models of performance, particularly in skills training;

2. content in a more impactful manner, by involving the trainees visually as well as intellectually;

3. an opportunity to analyze someone's performance without being afraid of hurting a person's feelings;

4. an opportunity to learn through observation about non-verbal behavior;

5. variety and relief for both the trainees and the trainer.

Films and video-tapes can be particularly useful as an "ice-breaker" if the trainees do not know each other and are somewhat fearful of getting involved.

Concerning the relative advantages of film vs. video-tape, films have the advantage of being easy to use because projection equipment is usually readily available and takes no technical ability to operate. By contrast, equipment for projecting video-tape is relatively expensive to rent, not readily available and more difficult to use. However, **if video equipment is available to tape trainee performances, it is well worth the extra effort and money.** Such taped performances provide trainees with an opportunity to observe and evaluate their own performance. Insights from self-analysis can be the beginning of a trainee's efforts to modify annoying personality traits and style and to commit himself to learning more effective ways to perform the paralegal role.

Video-taped trainee performances give **trainers** an opportunity to review the tapes with trainees and provide individualized instruction. It also establishes a baseline for evaluating the development of the paralegals' skills over the course of the training program. Tapes of the final performance might even be kept to compare against the paralegal's performance two or three months after the training program.

If there is no money for the rental of equipment, it might be possible to interest the education/communication arts or media department of your local college in allowing the use of their facilities and equipment as part of their educational program.

In the event that neither video-tapes nor films are available, audio tape can be useful. Obviously it does not have the added visual dimension of video and film, but nonetheless it can serve as a way for trainees to learn about their own level of verbal skills.

teaching interviewing techniques

Effective interviewing involves a high level of skill which is only learned over time with experience and on-going supervision. However, a trainer can help a trainee begin to develop those skills, and the purpose of this section is to assist trainers in that process.

The first task is to present principles and issues involved in the interviewing process. The second task is to involve the trainee in applying that knowledge in simulated interview situations.

principles & issues

As has already been discussed in previous sections, there are several possible teaching methods. It certainly would be feasible to present issues and principles of interviewing by the lecture method. However, our experience has been that a film or video-tape of a good interview can demonstrate with much greater impact in a shorter period of time the issues involved in interviewing. Our film "Paralegal Interviewing: Fact-Gathering and the Human Perspective" was designed for that purpose. A client with a disability problem is interviewed by a paralegal. Comments on critical interviewing issues are interspersed throughout the film to strengthen it as a teaching tool. The film not only serves a didactic purpose, but if shown at the beginning of the interviewing session, can "break the ice" and prepare the trainees for the role-playing sessions.

In order to reinforce the learning begun through the use of the film, an accompanying Trainee's Handbook was developed. The Handbook follows the format of the film, but explores in greater depth the principles presented in the film and poses a series of questions to be used as a written exercise, as a basis for discussion and/or as a self-testing device for the trainees.

It is recommended that the Introduction (page 6) and the section on "Issues Involved in Determining Social Security Disability" (page 27) be read by the trainees prior to viewing the film. After the film is shown, the trainees could be asked to write a brief summary, including a description of the problem, the development of the facts, the plan of action and what information is lacking. The summary might also include an assessment of the skills of the interviewer.

The trainees then should be asked to spend 10 or 15 minutes reading the rest of the Trainee's Handbook.

Following those exercises, hopefully the trainees would be ready to involve themselves in the application of the knowledge just learned to actual situations. Before turning to those exercises, a word of caution about the danger of presenting a model before involvement in role-playing. It is possible that some of the trainees will try to behave in exactly the same way as the interviewer in the film. One way to minimize this problem is to develop fact situations different from the one presented in the film. Another way is for the trainer to emphasize the need for the trainees to develop their own style and to adapt the principles to the type of client, as well as to the problem presented.

And finally, remember that presenting issues does not end with this initial presentation. **It is the responsibility of the trainer to highlight and summarize those issues throughout the course of the training.**

application of knowledge

In teaching interviewing techniques, success is measured by the skill demonstrated in application of knowledge. Thus it is important to provide a range of opportunities for trying out those skills. In the following pages we have outlined ten exercises which deal with the major issues in interviewing. Exercises 1 through 9 deal with specific pieces of the interviewing process and can be practiced in a group setting. (Our preference is for a maximum of ten trainees to a group.) The level of risk-taking ranges from minimal to moderate, as will be apparent when the exercises are studied. The 10th exercise involves an entire interview and thus utilizes the knowledge gained through the previous nine exercises. If at all possible, that role-playing exercise should be individually critiqued. There is a high level of risk-taking and involvement required, and having a large audience of peers might be inhibiting. If it isn't possible to have a one-to-one situation, it might be possible to have two or three trainees who take turns at interviewing, with one trainer critiquing the exercise.

Concerning the use of the exercises, we would expect that each trainer would study the exercises, use them as is, or modify them to suit his training style and the needs of the trainees. There are at least three ways to use these exercises:

1. in an intensive program on interviewing (please see page 43 of the Appendix for a proposed schedule);

2. as part of a basic training program on substantive law and skills training (see page 42 of the Appendix for a proposed outline);

3. as part of the supervision process; for example, a supervisor might utilize one or two exercises based on an analysis of this paralegal's interviewing skills.

the paralegal role

exercise 1

purpose

. . . To see how trainees perceive their roles, functions, and relationships with attorneys within a legal services program;

. . . To test and develop trainees' abilities to express their role and function in a clear and positive way that clients can understand.

trainer's tips

1. See Page 13 of the Trainee's Handbook.

2. Form a semi-circle and stand or sit facing the group. The trainer then asks individual members of the group to explain their role as paralegals to him as if he were the client. The trainer can depict typical client attitudes and reactions to the paralegals' explanations, e.g. misunderstanding with silent acceptance, continued demand to see a lawyer, still thinking that the paralegal is an attorney even after the explanation, and so forth.

3. Begin the drill by getting as many trainees to explain their role as possible. Allow only a minute or two for the explanation and try to keep discussion at a minimum. If trainees begin to discuss someone else's performance or tell you how they would do it, try to get them to demonstrate how they would explain their role.

4. Conduct a discussion, after the majority of the group has attempted an explanation of role, focusing on trainees' explanations to determine common problems. The most common problems are:

——Description of role in negative terms, e.g. "I am not an attorney." This occurs when paralegals do not have a clear understanding of their role, or when they lack confidence in that role and feel inferior to attorneys.

—Hurried or incomplete explanation of role: This sometimes occurs because of time pressures, fatigue and preoccupation with doing the "more important" fact-gathering aspects of the job.

5. Point out during the discussion important aspects underlying the paralegal's role such as:

—The real skills necessary to be a paralegal and the paralegals' sources of authority to act on behalf of clients, e.g. the supervision of client case handling by an attorney, and the authorization granted by specific administrative agencies to permit non-lawyers to represent clients before them.

—Some of the practical aspects of a paralegal's work, such as: the paralegal's work releases attorneys' time, allows the office to see more clients, speeds the handling of cases and so forth.

6. If some aspects of the paralegal's role and function still remain unclear, give the group a written assignment to outline their functions within the legal services program by developing their own job description. The job description included in the Appendix, page 46, can be used as a model against which trainees can compare and analyze their own job descriptions.

establishing rapport

exercise 2

purpose

. . . To give trainees opportunities to practice a variety of techniques for establishing rapport and for dealing with different clients and client reactions.

trainer's tips

1. See Page 11, Trainee's Handbook.

2. Begin the role-playing situation by having trainees concentrate on various ways **to greet clients.** For instance, the trainer can direct trainees to meet the client in the reception area, or at his office door, or at the desk after asking the client to come in. Discuss the effects of the way the clients are greeted and where they are greeted.

3. In testing and improving trainees' skills **in developing rapport,** confront paralegals with clients from different age and ethnic groups. Also direct clients to portray different attitudes and reactions, starting with a client acting docile but very upset to more difficult reactions such as suspicion and anger. For example, have the paralegal greet and try to develop rapport with an angry client he has kept waiting 45 minutes.

client confidentiality

exercise 3

purpose

. . . To give trainees an understanding of the importance of client confidentiality;

. . . To give opportunities to try out different ways of explaining the meaning of confidentiality to clients;

. . . To discuss the use of confidentiality as a technique for reassuring clients, maintaining rapport and facilitating the asking of personal and probing questions.

trainer's tips

1. See Page 22 of the Trainee's Handbook.

2. Briefly discuss with trainees the meaning and importance of client confidentiality.

3. Use a regular role-playing situation or a modified role-playing approach where the trainer is the client to actually see how trainees explain confidentiality to clients and to try out different ways to explain it more effectively. The situations should be relatively short permitting a majority of trainees to participate.

explaining client's right to an administrative hearing

exercise 4

purpose

. . . To give trainees an opportunity to try out different ways of explaining to clients their right to an administrative hearing;

. . . To assess how trainees get client signatures on appropriate forms such as "application for hearing" form and "authorization to represent" form.

trainer's tips

1. See Page 22, Trainee's Handbook.

2. Before starting the role-playing exercise, give each trainee a copy of the appropriate application for hearing form used in your locale and a copy of the authorization to represent form, Appendix, page 47. Direct trainees to explain the use of these forms to clients and to get their signatures on them during the course of the role-playing exercise. Watch for appropriate timing.

3. Direct trainees to concentrate on giving clear explanations of the basic elements in the hearing process and the clients' rights to a hearing. The purpose of such an explanation, in the initial interview, is to present enough essential information in order for the client to make an informed decision, but not so much information that the client will only become confused. Trainees often have difficulty in giving a balanced presentation.

client eligibility

exercise 5

purpose

. . . To discuss the principal issues involved in determining eligibility;

. . . To give trainees an opportunity to try out a variety of techniques in actually getting the type of information necessary to make eligibility determinations;

. . . To make a preliminary assessment of how creatively trainees use forms in gathering information.

trainer's tips

1. Discuss the major issues involved in determining client eligibility such as:

   ——the intensely personal character of financial information needed to determine eligibility;

   ——low-income people's right to an explanation why such questions need to be asked and their right to be asked those questions in a respectful manner;

   ——suggestions on how to ask eligibility questions in a sensitive way by creatively, not mechanically, using eligibility forms or questionnaires; by knowing and asking **only** those questions that are essential to determining eligibility; by asking specific or close-ended questions and not open-ended or leading questions that can confuse the client or develop an interrogative atmosphere;

   ——the problems in deciding at what point in the interview to determine eligibility;

   ——the acceptance of clients' answers to eligibility questions as truthful, unless there is clear evidence to the contrary.

2. Have the trainees role-play situations with clients whose eligibility ranges from easy to determine to uncertain. It is important to have at least one situation where the client is clearly ineligible and the paralegal must explain this to the client.

3. Instruct all the trainees to fill in the eligibility information on the form their agency uses or the one provided in the Appendix, page 48. These forms should be handed in after the exercise for the trainer to assess.

listening to clients

exercise 6

purpose

. . . To judge how well trainees listen with comprehension;

. . . To provide opportunities for trying out techniques to improve their listening capacities.

trainer's tips

1. See page 14, Trainee's Handbook.

2. Use the summary of the filmed interview prepared by trainees (see page 25) as the basis for discussing some of the barriers to effective listening, such as fatigue, boredom, anxiety, and psychological blocks to listening to certain types of clients from different ethnic groups or clients with annoying personality characteristics.

3. After the discussion, break the trainees up into groups of three for the role-playing exercise. In each group, one person will be the speaker, another the listener, and the third, the arbiter.

4. Give the groups these instructions: The speaker starts the conversation. **Before** the listener can become speaker he must first summarize, in his own words and without notes, what has been said previously. This summary must be correct to the satisfaction of the speaker. Where there is a dispute, the arbiter decides. The trainees should change roles and carry on the discussion until each one has played the "listener's" role.

5. The trainer and co-trainer should circulate among the groups during the role-playing and assess the awareness trainees have of their problems in listening.

6. Follow the exercise with a short discussion on what difficulties trainees had in listening and what techniques seemed helpful in overcoming these problems.

non-verbal behavior

exercise 7

purpose

. . . To help trainees become aware of non-verbal behavior and how it can affect communication during the course of an interview;

. . . To stimulate trainee awareness of their own non-verbal behavior.

trainer's tips

1. See page 15, Trainee's Handbook.

2. Give trainees a copy of the checklist "Analyzing Non-Verbal Behavior," Appendix, page 50, and instruct them to use it to analyze and evaluate the filmed interviewer's non-verbal responses. The completed checklist can be handed in as a written assignment.

3. Discuss the importance and use of non-verbal behavior in dealing with clients. It might also be useful to discuss the significance of the client's non-verbal responses in the film.

4. If trainee performances have been video-taped, instruct paralegals to use the checklist to analyze and evaluate their own performance or those of fellow trainees.

5. The checklist can also be used to evaluate live trainee performances.

exercise
8

fact gathering

purpose

. . . To define and focus in on the problem(s);

. . . To explain appropriate law in non-legal terms so that clients understand their rights and understand the purpose of the questions asked;

. . . To use the type of question appropriate to the information required, e.g. open or close-ended;

. . . To take notes;

. . . To use forms and checklists creatively;

. . . To maintain rapport throughout the fact-gathering phase of the interview.

trainer's tips

1. See pages 17 and 19, Trainee's Handbook.

2. Before starting the role-playing exercise, give each trainee a client intake form. (See Appendix, page 48). Trainees should be given an opportunity to become familiar with the forms and the type of information they seek.

3. Instruct every trainee to use the intake form and take notes throughout the course of the role-playing situation. This will help maintain interest and allow for other trainees to assume the interviewer's role at any time during the course of the role-playing situation. It also provides the trainer with feedback on the non-participating trainees' skills in observing, analyzing and reporting the facts.

4. The trainer should make it clear to trainees that this role-playing exercise starts out with the assumption that the interviewer has developed rapport, explained his role, determined client eligibility for the service, and listened to the client talk about his problem in general terms. Before beginning, state the client's problem or

problems, e.g. landlord-tenant problem, welfare grant reduced, benefit applied for and denied.

5. In this exercise, trainees often fail to give clients explanations of appropriate law, the reasons for their questions or the use of forms. Frequently, they are either uncomfortable in taking notes or so preoccupied with note-taking they don't seem to listen to clients. As trainers, you can handle such problems that arise in trainee performances in a number of ways. For instance, you can stop the action, focus the attention on the problem and offer suggestions on how the interviewer might try a different approach or use another technique. The trainee interviewer would then be encouraged to continue the role-playing, trying to incorporate the suggestions.

6. At the end of the exercise, trainees should be given a short time to fill in the forms and make additional notes. These should be handed in for the trainer to assess.

developing a plan of action & closing the interview

exercise 9

purpose

. . . To test trainees' skills in evaluating the facts concerning the client's problem;

. . . To see what solutions are developed;

. . . To provide trainees with opportunities to explain the possible options to clients, to involve the client in carrying out the agreed upon plan of action, and to close the interview.

trainer's tips

1. See pages 23 and 25, Trainee's Handbook.

2. Allow trainees time to analyze and evaluate the information gathered in the previous exercise. Discuss with them the options open to the client, what additional factual information is required, what practical steps the client can take to help and how to close the interview.

3. Develop a role-playing situation based on the previous discussions which give trainees the opportunity to explain options to the client, decide on a course of action and close the interview.

4. Trainees sometimes force their opinions on the client rather than explaining the options and permitting the client to exercise his right and responsibility to choose a course of action. In this situation, there is also the real possibility that paralegals might unwittingly give legal advice or make promises that cannot be kept.

5. Role reversals can be an effective way for trainees to gain insight into this problem. Another good technique is to have the paralegal trainee ask the client frequently if he has any questions.

6. Trainees frequently have trouble ending the interview. Some techniques are to review the plan of action, outline the client's role and set a date for a follow-up action.

summary of previous skills

exercise 10

purpose

. . . To test trainees' abilities to apply and integrate the principles and techniques of the first nine exercises, by giving every trainee an opportunity to conduct an entire client interview;

. . . To give every trainee an individual critique of his performance.

trainer's tips

1. Develop a single fact situation based on the substantive law area which can be used in all the trainees' individually conducted interviews. This fact situation should be different from the one used in the filmed interview and/or in any other model presented.

2. Prepare written materials complete with statute and/or regulations relevant to the problem and present this information to the trainees as a group.

3. Schedule these interview exercises to allow time for the entire interview to be conducted and a critique to follow. Because of time constraints, it might be necessary to have two trainees conduct the interview, one beginning, the other finishing.

4. Those doing the individual critiques should be thoroughly familiar with the entire training program, its content, goals, methods and materials in order to provide constructive criticism. (See "Critiqueing the Role-Playing Exercise," pages 20 and 21.)

epilogue

In this Handbook we have given an overview of the process involved in planning and implementing a training program, with special emphasis on interviewing as a subject matter. Although being a good trainer is a skill in itself, we have tried to provide information which might help someone without extensive experience function in that role.

We think that this packet on interviewing, as well as the other training packets mentioned in the Preface, can be used creatively and flexibly by project directors to begin to provide the kind of training that is essential if paralegals are to function effectively in their jobs. Technical assistance is available both from the National Paralegal Institute and from our office to help in setting up appropriate programs.

We would like to know whether you have used our materials, in what way you have used them, and how useful they were. We would also welcome suggestions as to what other materials you would want to have produced.

California Rural Legal Assistance Office
National Senior Citizens Law Center
942 Market Street, Suite 606
San Francisco, California 94102

appendix

TRAINER'S BIBLIOGRAPHY

Selected Publications of the CRLA Office of the National Senior Citizens Law Center*
942 Market Street, Suite 606 – San Francisco, California 94102

Collins, Donnelly, McAdams. *The Santa Cruz Story, Older People Serving Older People in a Legal Setting.* Handbook and accompanying 16 minute, 16 mm., color film.

Collins, Donnelly. *Paralegal Interviewing: Fact Gathering and the Human Perspective.* 30 minute, 16 mm. color film and accompanying Trainee's Handbook and Trainer's Handbook.

Supplemental Security Income (SSI) Manual. This training and reference manual for paralegals summarizes, analyzes, and provides advocate tips on the new federalized welfare program for the aged, blind, and disabled. *(In preparation)*

Administrative Hearing: Paralegal Representation. There will be a film and accompanying Advocates Handbook on how paralegals advocate on behalf of clients at a Social Security administrative hearing. *(In preparation)*

Selected Publications of the National Paralegal Institute*
2000 "P" Street, N.W., Washington D.C. 20036

Statsky, William P. *Investigation in a Law Office: A Manual for Paralegals.* Antioch School of Law, National Paralegal Institute. 1974

_____. *Legal Research, Writing and Analysis for Law Students and Paralegals: Some Starting Points.* Antioch School of Law, National Paralegal Institute. 1974

_____. *Teaching Advocacy: Learner-Focused Training for Paralegals.* National Paralegal Institute. 1973

_____. *What Have Paralegals Done? A Dictionary of Functions.* National Paralegal Institute. 1973

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* Write for total publication listing and price information.

5–DAY TRAINING OUTLINE

Evening: Personal Introductions and Overview of Training Program.

DAY 1:

Morning: Paralegal Roles and Legal Ethics (Incorporate Exercise 1)

Afternoon: Overview of Supplemental Security Income Program (SSI) and how it fits into the larger Income Maintenance picture

Supplemental Security Income

DAY 2:

Morning: SSI (continued)

Afternoon: Interviewing

DAY 3:

Morning: Interviewing (continued)

Afternoon: SSI Appeals Process/Client Rights

DAY 4:

Morning: Presentation of Client Fact Situation

Discussion of Investigation Skills

Afternoon: Preparation for Hearing

DAY 5:

Morning: Simulated Hearing/Client Representation by Paralegals

Afternoon: Wrap-up – Trainer discussion of Training Program, Problems of Paralegal profession, etc.

1–DAY SCHEDULE ON INTERVIEWING

8:30 – 9:00	Registration – materials – coffee
9:00 – 9:45	Personal Introductions – Purpose of Training described – Trainees instructed to read the Introduction (page 6) and the section on "Issues Involved in Determining Social Security Disability" (page 27) from the Trainee's Handbook (each trainee should have one).
9:45 – 10:15	Show film "Paralegal Interviewing: Fact-Gathering and the Human Perspective".
10:15 – 10:30	Coffee break
10:30 – 11:00	Trainees asked to write a brief summary of the film (see page 25 of this handbook) and hand in.
11:00 – 11:15	Trainees asked to read the rest of the Trainee's Handbook.
11:15 – 11:45	Exercise 1 – Explaining Paralegal Role
11:45 – 1:00	Lunch
1:00 – 1:30	Exercise 2, Establishing Rapport
1:30 – 2:00	Exercise 3, Client Confidentiality
2:00 – 2:30	Exercise 4, Explaining Client's Right to Administrative Hearing
2:30 – 3:00	Exercise 8, Fact-Gathering
3:00 – 3:15	Break
3:15 – 4:00	Exercise 8, Fact-Gathering (continued)
4:00 – 4:30	Exercise 9, Developing a Plan of Action and Closing the Interview

INDIVIDUAL TRAINING SESSION EVALUATION

Name of Session _____
Group A_____B_____ Date/Time_____
No. of Trainees _____
Trainer(s) _____
_____
Evaluator _____

Evaluation Code:
E – Excellent
AA – Above Average
A – Average
BA – Below Average
U – Unsatisfactory

1. What is the goal of the session?

2. Method used to convey teaching material: (circle)
   Lecture Role Play Discussion Panel
   a. Technical quality . . . . . E AA A BA U
   Comment:

   b. Appropriateness of method in accomplishing purpose . . E AA A BA U
   Comment:

3. Trainer's Role:
   a. Establishing learning atmosphere . . . . . E AA A BA U
   b. Flexibility . . . . . E AA A BA U
   c. Ability to involve trainee (trainee risk-taking) . . . . . E AA A BA U
   d. Presentation . . . . . E AA A BA U
   Comment:

4. Materials:
   a. Content of materials used . . . . . E AA A BA U
   b. Technical quality of materials used . . . . . E AA A BA U
   c. Appropriateness of materials . . . . . E AA A BA U
   Comment:

OUTLINE FOR EVALUATING TOTAL TRAINING PROGRAM

Name of Training Program _____

Dates _____

Sponsoring Organization _____

Evaluator _____

1. Goals: What were the overall goals for the training program?

2. Content:
   a) What were the content areas being taught?
   b) Were they relevant to the goals?

3. Organization:
   a) What was the quality of the physical set up, e.g. accommodations, training facilities, food, etc.?

   b) How effective was the scheduling in meeting the goals of the program?

4. Trainers:
   a) Were they well prepared?
   b) Did they work as a team?
   c) Could they establish a learning atmosphere and involve trainees?
   d) Were they flexible in adapting content, method and materials to the needs of the trainee group?

5. Trainees:
   a) Was a common basis used to select trainees?
   b) Was the size of the trainee group appropriate?
   c) Were the trainees motivated?

6. Methods:
   a) What were the training methods used?
   b) How well did these methods work?
   c) Were the methods used appropriate to the content and purpose of the training program?

7. Materials:
   a) How appropriate and complete were the written materials provided?
   b) Were audio-visual materials and props used effectively?

8. Additional comments:

POSITION DESCRIPTION

I. **POSITION TITLE: LEGAL ASSISTANT**

II. **DUTIES AND RESPONSIBILITIES:**

A. **Purpose of Position:** To represent individuals and groups of senior citizens (62 or over) in securing their full entitlements and maximum benefits from health care, income maintenance, housing, and social service programs and to protect their rights as consumers.

B. **Specific Duties and Responsibilities:**

1. conduct all initial client interviews;
2. under attorney supervision, initiate, research, investigate, plan, carry out and terminate a client case;
3. implement case action on behalf of client, including advice-giving, informal advocacy (negotiation), and formal advocacy (representation of client at administrative hearing);
4. work with attorney and student volunteers on special research projects;
5. educate client groups on their rights and on how to utilize legal services;
6. provide information on services of the office through skilled use of the media;
7. participate in on-going staff training programs.

C. **SUPERVISOR:** Supervising attorney.

D. **SUPERVISEES:** Student volunteers.

III. **QUALIFICATION CRITERIA**

A. **Age:** 55 years of age or over.

B. **Education:** No formal education required. Functional literacy required. Good speaking and writing ability desirable.

C. **Work Experience:** Experience in working with people, and/or work in fields related to health care, income maintenance, housing, consumer affairs, social services, etc. is desirable, but not required.

D. **Personal:** Emphasis will be placed on the individual's "life experiences," especially as they relate to the person's awareness of the problems of elderly persons, attitudes toward the poor and ability and committment to act on behalf of senior citizens.

E. **Other:** All applicants must also be willing to participate in a training program prior to office opening.

IV. **SALARY:** $550/mo., plus fringe benefits.

AUTHORIZATION TO REPRESENT

I,_____, residing at
(Name – Please Print)

_____
(Address)

hereby authorize Senior Citizens Legal Services to represent me in the matter of: _____

_____

_____

and in connection therewith to have access to, inspect and copy all information relating thereto, including, but not limited to, all medical records and information.

_____
Signature

_____
Date

Witness:

_____
Signature

_____
Date

CLIENT INTAKE, CLOSING AND STATISTICAL SHEET

Legal Assistant _____ **File No.** _____

CLIENT NAME _____

Social Security Number _____

Address: _____

_____

Phone _____

SEX: M F AGE _____

MARITAL STATUS: S M D W Sep.

IS APPLICANT HEAD OF HOUSEHOLD? _____

ETHNICITY: (Circle One)

1. American Indian
2. Black
3. Caucasian
4. Oriental
5. Filipino
6. Spanish Surname
7. Other

SPOUSE/FRIEND _____

Address _____

_____

Phone: _____

Number of DEPENDENTS not including Spouse _____

PREVIOUSLY SERVED: Yes No

REFERRED BY: (Circle One)

1. Health Agency
2. Welfare Agency
3. Other Social Agency
4. Publicity/Community Education
5. Client organization
6. Former client
7. Other _____

DATE OPENED _____

DATE CLOSED _____

INCOME:

SSI: Old/Blind/Disabled _____

GA / AFDC _____

SOC. SEC.: OASDI _____

STATE UNEMPLOYMENT _____

VETERANS PENSION _____

OTHER _____

TOTAL: _____

ASSETS:

BANK/SAVINGS _____

HOME/OTHER PROP. _____

MOTOR VEHICLE _____

LIFE INS. VALUE _____

TOTAL: _____

LIABILITIES:

TOTAL DEBTS _____

MONTHLY DEBT PYMT. _____

IS APPLICANT ELIGIBLE FOR OUR SERVICES?

Yes No

If questionable, please explain:

_____

_____

PLEASE TURN TO FORM NO. 2 AND SELECT THE APPROPRIATE PROBLEM.

List the numbers in the proper sections below. As the case proceeds fill in the appropriate spaces with numbers indicating the actions taken and the results obtained.

PROBLEM	ACTION	RESULTS

Client satisfied? Yes No

FORM NO. 1

LIST OF PROBLEMS

1. SUPPLEMENTAL SECURITY INCOME (SSI): Old/Blind/Disabled
   a) application b) denial c) amount d) termination e) information f) harassment

2. GA/AFDC
   a) application b) denial c) amount d) termination e) harassment f) information

3. SOCIAL SECURITY: OASDI
   a) application b) denial c) amount d) termination e) information

4. VETERANS BENEFITS
   a) application b) denial c) amount d) termination e) information

5. MEDICAL (MEDICAID)
   a) application b) denial c) termination d) information

6. MEDICARE
   a) billing b) information c) denial-eligibility d) denial-coverage e) harassment

7. LANDLORD-TENANT (Private)
   a) eviction b) rent increase c) code enforcement d) information e) harassment

8. LANDLORD-TENANT (Public)
   a) application b) denial c) eviction d) rent increase e) code enforcement f) information g) harassment

9. HOME OWNERSHIP
   a) taxes b) foreclosure c) information

10. CONSUMER
    a) garnishment b) repossession c) defective goods d) billing e) work unsatisfactory f) price unsatisfactory
    g) harassment i) contract

LIST OF ACTIONS

1. Referral
2. Investigation
3. Advice given to client
4. Client education
5. Informal advocacy
6. Formal advocacy (Adm. hearing)
7. Court action
8. No action

LIST OF RESULTS

1. Success
2. Partial Success
3. No Success
4. Result unknown
5. Client handling own case
6. Other organization handling case
7. No resource available
8. Case has no merit

FORM NO. 2

CHECKLIST

For Observing and Evaluating Interviewer's Non-Verbal Behavior

	Most of time	Sometimes	Never
I. POSITION TOWARD CLIENT			
1. Close			
2. Distant			
3. Facing			
4. Not facing			
II. POSTURE			
1. Relaxed			
2. Slouching			
3. Rigid			
4. Restless			
III. EYE CONTACT / FACIAL EXPRESSION			
1. Spontaneous eye contact			
2. Looks at person when talking			
3. Stares			
4. Nods affirmatively			
5. Frowns			
6. Shows little or no expression			
IV. GESTURES			
1. Natural			
2. Forced			
3. No gesturing			
4. Too much gesturing			
V. VERBAL QUALITY			
1. Pleasant			
2. Too loud			
3. Too soft			
4. Too fast			
5. Too slow			
6. Interested			
7. Dull			
8. Nervous			

Rate Interviewer's Overall Non-Verbal Behavior as (circle one):

(1) Appropriate (2) Sometimes appropriate (3) Seldom appropriate (4) Inappropriate

PARALEGAL INTERVIEWING:

Fact Gathering and the Human Perspective

Film – 30 Minute, 16 mm Color

The film is designed to demonstrate principles of paralegal interviewing through an actual interview and through the use of a commentator who highlights important issues during the course of that interview. In this packet, the film is the primary teaching tool, with supplemental written materials for trainees and trainers.

Handbooks for Trainees and Trainers

The "Trainee's Handbook" is designed to provide additional information which could not be included in the film, without disrupting the flow of the interview. The "Trainer's Handbook" is designed to provide an overview of the process involved in planning and implementing a paralegal training program, with special emphasis on interviewing.

The "Trainee's Handbook" can, of course, be purchased separately or at bulk rate.

ORDER FORM

NAME _____ TITLE _____

ORGANIZATION _____

ADDRESS _____ CITY _____ STATE _____ ZIP _____

THE FILM: *Paralegal Interviewing*

Rental fee includes one free copy of the Trainee's and Trainer's Handbooks.

$ 6.00 for Legal Services Offices
$10.00 for other agencies

DATES PREFERRED (Give 2)

1) _____

2) _____

THE HANDBOOKS:

*"Trainer's Handbook"**
$1.25/copy
Copies requested _____

*"Trainee's Handbook"**
$1.25/copy
Copies requested _____

*Bulk rates available: 5 or more copies, $1.00 each.

Copies requested _____

CALIFORNIA RURAL LEGAL ASSISTANCE OFFICE
NATIONAL SENIOR CITIZENS LAW CENTER
942 Market Street, Suite 606
San Francisco, California 94102
Phone: (415) 989-3966